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U.S. DISTRICT COURT
EASTERN DISTRICT OF
NEW YORK
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
DAVID WEXLER,

Plaintiff,

-against-

SYNERGY PREP, INC.,

Defendant.
-----X

NOT FOR PUBLICATION
MEMORANDUM & ORDER
20-CV-2672 (CBA) (SMG)

AMON, United States District Judge:

Plaintiff David Wexler brought this action under the Copyright Act, 17 U.S.C. §§ 101, et seq., and the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. §§ 1201, et seq., against Defendant Synergy Prep, Inc., alleging that Defendant unlawfully reproduced and published a photograph that Plaintiff authored and registered with the United States Copyright Office. (ECF Docket Entry (“D.E.”) # 1.) Defendant failed to appear in or otherwise defend the action, and the Clerk of Court entered default against Defendant on November 23, 2020. (D.E. # 11.) Plaintiff subsequently moved for default judgment, (D.E. # 12), and I referred the motion to the Honorable Steven M. Gold, United States Magistrate Judge, for report and recommendation (“R&R”), (D.E. dated 11/24/2020). On January 3, 2021, Magistrate Judge Gold issued a thorough and well-reasoned R&R recommending that Plaintiff’s motion for default judgment be granted, but that he be awarded only a portion of the damages, fees, and costs that he sought. (D.E. # 21 at 1–2.) Specifically, Magistrate Judge Gold recommended awarding Plaintiff \$1,000 in statutory damages under the Copyright Act, \$5,000 in statutory damages under the DMCA, \$595 in attorney’s fees, and \$400 in costs. (Id. at 10.)

No party has objected to the R&R, and the time for doing so has passed. When deciding whether to adopt an R&R, a district court “may accept, reject, or modify, in whole or in part, the

findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the R&R to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted).

The Court has reviewed the record and, finding no clear error, adopts the R&R. Accordingly, the Court grants Plaintiff’s motion for default judgment against Defendant, and awards Plaintiff \$1,000 in statutory damages under the Copyright Act, \$5,000 in statutory damages under the DMCA, \$595 in attorney’s fees, and \$400 in costs.

SO ORDERED.

Dated: January 26, 2021
Brooklyn, New York

/s/ Carol Bagley Amon
Carol Bagley Amon
United States District Judge